

MICHAEL N. FEDER

Nevada Bar No. 7332

DICKINSON WRIGHT PLLC

3883 Howard Hughes Parkway, Suite 800

Las Vegas, NV 89169

Telephone: 702-550-4400

Facsimile: 844-670-6009

Email: mfeder@dickinsonwright.com

MARTIN D. HOLMES (*Pro Hac Vice*)

Tennessee Bar No. 012122

PETER F. KLETT (*Pro Hac Vice*)

Tennessee Bar No. 012688

DICKINSON WRIGHT PLLC

Fifth Third Center, Suite 800

424 Church Street

Nashville, TN 37219

Telephone: 615-244-6538

Facsimile: 844-670-6009

Email: mdholmes@dickinsonwright.com

pklett@dickinsonwright.com

TREVOR W. HOWELL (*Pro Hac Vice*)

Tennessee Bar No. 009496

HOWELL LAW, PLLC

P.O. Box 158511

Nashville, TN 37215

Telephone: (615) 406-1416

Email: trevor@howelllawfirmllc.com

*Attorneys for Plaintiffs, Collective Class Members
and Hawaii Class Members*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DANIEL GONZALEZ and JEFFREY HUGHES,
on behalf of themselves and others similarly
situated,

Plaintiffs,

v.

DIAMOND RESORTS INTERNATIONAL
MARKETING, INC., and WEST MAUI
RESORTS PARTNERS, L.P.,

Defendants.

Case No. 2:18-cv-00979-APG-NJK

**PLAINTIFFS' UNOPPOSED
MOTION TO EXCEED THE 30-
PAGE LIMIT FOR PLAINTIFFS'
MOTION FOR PARTIAL
SUMMARY JUDGMENT**

Plaintiffs, on behalf of themselves, Opt-in Plaintiffs and Hawaii Class Members, submit
this Unopposed Motion to Exceed the 30-page limit for Plaintiffs' Motion for Partial Summary

Judgment. For the reasons stated below and for good cause shown, the Court should grant Plaintiffs' Motion.

This is a conditionally certified nationwide collective action under the FLSA for unpaid wages, including overtime, and a certified Rule 23 state law class action for unpaid wages, including overtime, under the Hawaii Wage and Hour Law.

Currently, there are 798 individuals who have filed consents and joined this action as Opt-in Plaintiffs and 614 Hawaii Class Members in the action, including Plaintiff Gonzalez. *Ex. I, Declaration of Martin Holmes ("Holmes Decl."), ¶ 2.*

On March 29, 2021, Defendants filed a Motion for Summary Judgment, or in the Alternative, Partial Summary Judgment of the Certain Opt-in Plaintiffs and Hawaii Class Members Pursuant to FRCP 56. Defendants' Motion was 32 pages in length. *See ECF No. 202.*

On April 22, 2021, Defendants' counsel communicated with Plaintiffs' counsel, advising that Defendants plan to file a second motion for summary judgment, which collectively with the prior Motion referenced above, would exceed the 30-page limit under LR 7-3(a). Defendants' counsel inquired whether Plaintiffs would oppose a motion seeking a page extension for Defendants' second motion. *Ex. I, Holmes Decl., ¶ 3.*

On April 23, 2021, Plaintiffs' counsel responded, indicating that Plaintiffs would not oppose Defendants' motion to exceed the 30-page limit, provided that Defendants would reciprocate and not oppose a similar request by Plaintiffs to exceed the 30-page limit for either a single motion for summary judgment or two separate motions, which collectively would exceed the 30-page limit. *Id., ¶ 4.*

Defendants' counsel indicated that Defendants would not oppose a similar request made by Plaintiffs' counsel to exceed the 30-page limit. *Id., ¶ 5.*

The current deadline to file dispositive motions is Monday, April 26, 2021. *See ECF No. 196, p. 2.*

Plaintiffs are preparing either a single motion for partial summary judgment or two separate motions for partial summary judgment on the following issues: 1) whether, as a matter of law, the

1 manner in which Defendants calculated overtime pay prior to April 1, 2018, violated the FLSA
 2 and the Hawaii Wage and Hour Law; and 2) whether, as a matter of law, Defendants are not
 3 covered by the retail or service establishment exemption contained in 207(i) of the FLSA. *Id.*, ¶ 6.

4 While Plaintiffs are diligently working not to exceed the 30-page limit, at this point, it
 5 appears that Plaintiffs' motion(s) will exceed 30 pages. Given the fact that this is a large collective
 6 and class action involving over 1,000 individuals and the complexity of the legal issues involved
 7 related to both liability and Defendants' affirmative defenses, Plaintiffs respectfully submit that
 8 good cause exists to permit Plaintiffs to exceed the 30-page limit. This is especially true in light
 9 of the fact that Defendants have already filed a motion for summary judgment which was 32 pages
 10 in length and plan to seek leave of the Court to file a second motion. *Id.*, ¶ 7.

11 Based on the foregoing, Plaintiffs respectfully request an order permitting Plaintiffs to file
 12 a single motion for summary judgment not to exceed 45 pages or alternatively, two motions for
 13 summary judgment which collectively do not exceed 45 pages.

14
 15 Respectfully submitted,

16 DICKINSON WRIGHT PLLC

17 /s/ Martin D. Holmes

18 MICHAEL N. FEDER

19 Nevada Bar No. 7332

3883 Howard Hughes Parkway, Suite 800

Las Vegas, NV 89169

20 MARTIN D. HOLMES

21 (Admitted Pro Hac Vice)

22 Tennessee Bar No. 012122

23 Fifth Third Center, Suite 800

424 Church Street

Nashville, TN 37219

24 PETER F. KLETT

25 (Admitted Pro Hac Vice)

26 Tennessee Bar No. 012688

27 Fifth Third Center, Suite 800

424 Church Street

Nashville, TN 37219

TREVOR W. HOWELL
(Admitted Pro Hac Vice)
HOWELL LAW, PLLC
Tennessee Bar No. 009496
P.O. Box 158511
Nashville, TN 37215

*Attorneys for Plaintiffs, Opt-in Plaintiffs
and Hawaii Class Members*

ORDER

For good cause shown, it is hereby ORDERED that Plaintiffs' Motion to Exceed the 30-page limit is granted and Plaintiffs may file a single motion for summary judgment not to exceed 45 pages or alternatively, two motions for summary judgment which collectively do not exceed 45 pages.

IT IS SO ORDERED:



ANDREW P. GORDON
United States District Judge

DATED: April 26, 2021
Case No. 2:18-cv-00979-APG-NJK

CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2021, I caused a true and accurate copy of the foregoing PLAINTIFFS' UNOPPOSED MOTION TO EXCEED THE 30-PAGE LIMIT FOR PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT to be filed with the Clerk of the Court via the Court's CM/ECF system, which sent an electronic copy of same to the following counsel of record:

HOWARD E. COLE
JENNIFER K. HOSTETLER
BRIAN D. BLAKELY
LEWIS ROCA ROTHGERBER CHRISTIE LLP
3993 Howard Hughes Pkwy, Suite 600
Las Vegas, NV 89169-5996

ALISON MEGAN HAMER (Admitted Pro Hac Vice)
BENJAMIN JOSEPH TREGER (Admitted Pro Hac Vice)
KIRSTIN ELISABETH MULLER (Admitted Pro Hac Vice)
FERRY EDEN LOPEZ (Admitted Pro Hac Vice)
HIRSCHFELD KRAMER LLP
233 Wilshire Boulevard, Suite 600
Santa Monica, California 90401

Attorneys for Defendants

/s/ Martin D. Holmes
Martin D. Holmes

4852-0894-6150 v1 [77850-1]